

SENATE BILL No. 471

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-3; IC 4-10-19-12; IC 4-13-2-17.5; IC 6-1.1-19-8; IC 6-3.1-25; IC 8-23-2-18; IC 13-14-2-8; IC 14-8-2-107; IC 14-12-4; IC 15-7-9.

Synopsis: Growth related projects and land conservation. Prohibits various state agencies from funding growth related projects in certain areas. Requires the department of local government finance to give priority to school construction projects that: (1) renovate or expand existing school buildings; (2) are located in existing neighborhoods; (3) do not contribute to the conversion of farm lands; and (4) do not require new water or sewer infrastructure. Provides a tax credit for job creation in certain municipal areas. Establishes the Hoosier legacy fund to fund eligible projects under the United States Department of Agriculture's farmland preservation and forest legacy programs. Authorizes the land resources council to identify priority funding areas and perform certain other tasks. Makes a technical correction.

Effective: July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 471

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-3-8.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.1. When considering
3 offering economic development assistance to businesses and industries,
4 the department shall do the following:

5 (1) Consider the potential environmental impact that would be
6 caused by the assistance.

7 (2) Give priority to businesses and industries that, as the principal
8 activity of the businesses and industries, convert recyclable
9 materials into useful products or create markets for products made
10 from recycled materials.

11 **(3) Give priority to businesses and industries located in a**
12 **priority funding area (as defined in IC 15-7-9-3.6).**

13 SECTION 2. IC 4-4-3-8.5 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2005]: Sec. 8.5. (a) As used in this section, "growth related
16 project" has the meaning set forth in IC 15-7-9-3.3.

17 (b) As used in this section, "priority funding area" has the



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1 meaning set forth in IC 15-7-9-3.6.

2 (c) The department of commerce may not fund a growth related
3 project in an area that is not a priority funding area.

4 SECTION 3. IC 4-10-19-12 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2005]: Sec. 12. (a) As used in this section, "growth related
7 project" has the meaning set forth in IC 15-7-9-3.3.

8 (b) As used in this section, "priority funding area" has the
9 meaning set forth in IC 15-7-9-3.6.

10 (c) The budget agency may not loan money from the fund for a
11 growth related project in an area that is not a priority funding
12 area.

13 SECTION 4. IC 4-13-2-17.5 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2005]: Sec. 17.5. (a) As used in this section, "growth related
16 project" has the meaning set forth in IC 15-7-9-3.3.

17 (b) As used in this section, "priority funding area" has the
18 meaning set forth in IC 15-7-9-3.6.

19 (c) The budget agency may not approve a request for an
20 allotment under section 18 of this chapter for a growth related
21 project in an area that is not a priority funding area.

22 SECTION 5. IC 6-1.1-19-8 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) A school
24 corporation must file a petition requesting approval from the
25 department of local government finance to incur bond indebtedness,
26 enter into a lease rental agreement, or repay from the debt service fund
27 loans made for the purchase of school buses under IC 20-9.1-6-5 not
28 later than twenty-four (24) months after the first date of publication of
29 notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless
30 the school corporation demonstrates that a longer period is reasonable
31 in light of the school corporation's facts and circumstances. A school
32 corporation must obtain approval from the department of local
33 government finance before the school corporation may:

- 34 (1) incur the indebtedness;
- 35 (2) enter into the lease agreement; or
- 36 (3) repay the school bus purchase loan.

37 This restriction does not apply to ad valorem property taxes which a
38 school corporation levies to pay or fund bond or lease rental
39 indebtedness created or incurred before July 1, 1974.

40 (b) The department of local government finance may either approve,
41 disapprove, or modify then approve a school corporation's proposed
42 lease rental agreement, bond issue or school bus purchase loan. Before

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1 it approves or disapproves a proposed lease rental agreement, bond
2 issue or school bus purchase loan, the department of local government
3 finance may seek the recommendation of the tax control board.

4 (c) The department of local government finance shall render a
5 decision not more than three (3) months after the date it receives a
6 request for approval under subsection (a). However, the department of
7 local government finance may extend this three (3) month period by an
8 additional three (3) months if, at least ten (10) days before the end of
9 the original three (3) month period, the department sends notice of the
10 extension to the executive officer of the school corporation. A school
11 corporation may petition for judicial review of the final determination
12 of the department of local government finance under this section. The
13 petition must be filed in the tax court not more than forty-five (45) days
14 after the department enters its order under this section.

15 (d) ~~After December 31, 1995,~~ The department of local government
16 finance may not approve a school corporation's proposed lease rental
17 agreement or bond issue to finance the construction of additional
18 classrooms unless the school corporation first:

- 19 (1) establishes that additional classroom space is necessary; and
- 20 (2) conducts a feasibility study, holds public hearings, and hears
21 public testimony on using a twelve (12) month school term
22 (instead of the nine (9) month school term (as defined in
23 IC 20-10.1-2-2)) rather than expanding classroom space.

24 **(e) Beginning January 1, 2006, the department of local**
25 **government finance, in the department's consideration of a school**
26 **corporation's proposed lease rental agreement or bond issue, shall**
27 **give priority to school construction projects that do the following:**

- 28 **(1) Renovate or expand existing school buildings.**
- 29 **(2) Are located in existing neighborhoods.**
- 30 **(3) Do not convert or contribute to the conversion of**
31 **agricultural lands.**
- 32 **(4) Do not require new water or sewer infrastructure.**

33 **The department may not approve a school corporation's proposed**
34 **lease rental agreement or bond issue for a school construction**
35 **project that contributes to the conversion of agricultural lands or**
36 **requires new water or sewer infrastructure unless the school**
37 **corporation shows that the renovation or expansion of existing**
38 **school buildings is impracticable.**

39 ~~(e)~~ (f) This section does not apply to school bus purchase loans
40 made by a school corporation which will be repaid solely from the
41 general fund of the school corporation.

42 ~~(f)~~ (g) A taxpayer may petition for judicial review of the final

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determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

SECTION 6. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 25. Smart Growth Job Creation Credit

Sec. 1. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) limited liability company; or
- (4) limited liability partnership.

Sec. 2. As used in this chapter, "priority funding area" has the meaning set forth in IC 15-7-9-3.6.

Sec. 3. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 4. As used in this chapter, "taxpayer" means a person, corporation, or pass through entity that is an employer in a priority funding area.

Sec. 5. (a) In a taxable year beginning after December 31, 2005, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year for the establishment or expansion of a business facility located in a priority funding area that results in the creation of:

- (1) at least sixty (60) new positions;
- (2) at least thirty (30) new positions if the total payroll for the new positions is greater than the state average salary multiplied by sixty (60); or
- (3) at least twenty-five (25) new positions if the taxpayer is engaged in one (1) or more of the following:
 - (A) Manufacturing or mining.
 - (B) Transportation or communications.
 - (C) Agriculture, forestry, or fishing.
 - (D) Research, development, or testing.
 - (E) Biotechnology.

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(F) Computer programming, data processing, or other computer related services.

(G) Financial, real estate, or insurance services.

(H) The operation of central administrative offices or a company headquarters.

(b) The amount of the credit is equal to the lesser of:

(1) the number of new positions created in the priority funding area multiplied by one thousand dollars (\$1,000); or

(2) the total of wages paid by the taxpayer to the new employees in the priority funding area in the taxable year multiplied by two and one-half percent (2.5%).

Sec. 6. (a) If the amount determined under section 5(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year and the taxpayer does not elect to receive a refund under subsection (b), the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is entitled to a refund of any unused credit.

Sec. 7. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 8. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return in the manner prescribed by the department. The taxpayer must submit to the department proof of payment of the wages of the new employees in the priority funding area and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 7. IC 8-23-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) As used in this section, "growth related project" has the meaning set forth in IC 15-7-9-3.3.

(b) As used in this section, "priority funding area" has the meaning set forth in IC 15-7-9-3.6.

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(c) The Indiana department of transportation may not fund a growth related project in an area that is not a priority funding area.

SECTION 8. IC 13-14-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this section, "growth related project" has the meaning set forth in IC 15-7-9-3.3.

(b) As used in this section, "priority funding area" has the meaning set forth in IC 15-7-9-3.6.

(c) The department of environmental management may not fund a growth related project in an area that is not a priority funding area.

SECTION 9. IC 14-8-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-12-4, the meaning set forth in IC 14-12-4-1.

~~(8)~~ (9) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

~~(9)~~ (10) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

~~(10)~~ (11) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.

~~(11)~~ (12) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.

~~(12)~~ (13) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

~~(13)~~ (14) For purposes of IC 14-20-11, the meaning set forth in

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1 IC 14-20-11-2.
 2 ~~(14)~~ (15) For purposes of IC 14-22-3, the meaning set forth in
 3 IC 14-22-3-1.
 4 ~~(15)~~ (16) For purposes of IC 14-22-4, the meaning set forth in
 5 IC 14-22-4-1.
 6 ~~(16)~~ (17) For purposes of IC 14-22-5, the meaning set forth in
 7 IC 14-22-5-1.
 8 ~~(17)~~ (18) For purposes of IC 14-22-8, the meaning set forth in
 9 IC 14-22-8-1.
 10 ~~(18)~~ (19) For purposes of IC 14-22-34, the meaning set forth in
 11 IC 14-22-34-2.
 12 ~~(19)~~ (20) For purposes of IC 14-23-3, the meaning set forth in
 13 IC 14-23-3-1.
 14 ~~(20) For purposes of IC 14-23-8, the meaning set forth in~~
 15 ~~IC 14-23-8-1.~~
 16 (21) For purposes of IC 14-25-2-4, the meaning set forth in
 17 IC 14-25-2-4.
 18 (22) For purposes of IC 14-25-10, the meaning set forth in
 19 IC 14-25-10-1.
 20 (23) For purposes of IC 14-25-11-19, the meaning set forth in
 21 IC 14-25-11-19.
 22 (24) For purposes of IC 14-25.5, the meaning set forth in
 23 IC 14-25.5-1-3.
 24 (25) For purposes of IC 14-28-5, the meaning set forth in
 25 IC 14-28-5-2.
 26 (26) For purposes of IC 14-31-2, the meaning set forth in
 27 IC 14-31-2-5.
 28 (27) For purposes of IC 14-25-12, the meaning set forth in
 29 IC 14-25-12-1.
 30 **(28) For purposes of IC 14-32-8, the meaning set forth in**
 31 **IC 14-32-8-1.**
 32 ~~(28)~~ (29) For purposes of IC 14-33-14, the meaning set forth in
 33 IC 14-33-14-3.
 34 ~~(29)~~ (30) For purposes of IC 14-33-21, the meaning set forth in
 35 IC 14-33-21-1.
 36 ~~(30)~~ (31) For purposes of IC 14-34-6-15, the meaning set forth in
 37 IC 14-34-6-15.
 38 ~~(31)~~ (32) For purposes of IC 14-34-14, the meaning set forth in
 39 IC 14-34-14-1.
 40 ~~(32)~~ (33) For purposes of IC 14-37-10, the meaning set forth in
 41 IC 14-37-10-1.
 42 SECTION 10. IC 14-12-4 IS ADDED TO THE INDIANA CODE

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AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4. Hoosier Legacy Fund

Sec. 1. As used in this chapter, "fund" refers to the Hoosier legacy fund established by section 2 of this chapter.

Sec. 2. (a) The Hoosier legacy fund is established to provide matching funds for eligible projects under the United States Department of Agriculture (USDA) farmland preservation program and the USDA forest legacy program. The fund shall be administered by the department.

(b) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Gifts and donations intended for deposit in the fund.

(3) Federal grants or money available for deposit into the fund.

(4) Money from any other source.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 11. IC 15-7-9-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.3. (a)** As used in this chapter, "growth related project" means a public or private construction or development project that encourages, contributes to, or supports growth or development. The term includes highway projects, sewer and water construction projects, state office facility construction projects, and all types of infrastructure projects.

(b) The term does not include a highway construction project if the project does not encourage growth or development and one (1) of the following purposes is the sole purpose of the project:

(1) Repair or maintenance.

(2) Safety improvements.

(3) Meeting a demonstrated existing traffic demand.

SECTION 12. IC 15-7-9-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.6.** As used in this chapter, "priority funding area" means a specific area:

(1) defined by the boundaries of a municipality that exist on

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(2) zoned industrial and served by a public or community water and sewer system and contiguous to the boundary of a municipality.

SECTION 13. IC 15-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The council may do the following:

(1) Provide technical assistance and information about land use strategies.

(2) Facilitate collaboration among commonly affected state, county, and local government units.

(3) Compile and maintain a land planning information library, both hard copy and electronic, that includes current data on land resources in Indiana, **land use facts and trends, urban and rural planning, and economic development policies.**

(4) Establish or coordinate educational programs for governmental units, nongovernmental units, and the public with special consideration for local planning commission members and county commissioners.

(5) Provide counties and local communities conducting land use planning with access to technical and legal assistance through a referral service.

(6) Provide information to local authorities on model ordinances for programs and techniques on land use.

(7) Obtain grants and assist counties and local communities in locating additional funding sources for planning projects.

(8) Make recommendations to the general assembly and other governmental bodies concerning land resources.

(9) When requested, advise the general assembly on proposals relating to land resources.

(10) Identify priority funding areas in cooperation with municipalities.

(11) Develop a rating system for funding eligible projects that gives a priority to growth related projects that are based on local growth plans that focus on the following:

(A) Urban redevelopment.

(B) Expansion of mass transit.

(C) Environmental quality improvement.

(12) Review all the growth related projects of the following agencies:

(A) The Indiana department of transportation.

(B) The department of commerce.

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- 1 (C) The department of environmental management.
- 2 (D) Any other state agency that distributes state or federal
- 3 money for growth related projects.

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